

No.11873

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United States  
Circuit Court of Appeals  
For the Ninth Circuit

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HAZEL EDNA LEWIS,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

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Transcript of Record

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Upon Appeal from the District Court of the United States  
for the Western District of Washington,  
Southern Division

FILED

APR 24 1948

PAUL P. O'BRIEN,  
CLERK



No. 11873

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United States  
Circuit Court of Appeals  
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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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ATTORNEYS OF RECORD

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Attorney for Defendant-Appellant.

J. CHARLES DENNIS, ESQ.

United States District Attorney

HARRY SAGER, ESQ.

Assistant United States Attorney,

324 Federal Building, Tacoma, Washington

Attorneys for Plaintiff-Appellee.

United States District Court, Western District of  
Washington, Southern Division

No. 15870

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HAZEL EDNA LEWIS,

Defendant.

### INDICTMENT

The Grand Jury Charges:

#### Count I.

On or about December 5, 1946, at Longview, Washington, Hazel Edna Lewis procured to be falsely and fraudulently executed by Dr. J. A. Nelson a certain document required by the provisions of the Internal Revenue Laws and Regulations made in pursuance thereof, to wit, a physician's prescription for narcotics. That said prescription was falsely executed in that it contained a false and fictitious address of the patient named therein.

All in violation of 26 USC 3793.

#### Count II.

On or about December 26, 1946, at Longview, Washington, Hazel Edna Lewis procured to be falsely and fraudulently executed by Dr. J. A. Nelson a certain document required by the provisions of the Internal Revenue Laws and Regulations made in pursuance thereof, to wit, a physician's prescription for narcotics. That said prescription was falsely



executed in that it contained a false and fictitious address of the patient named therein.

All in violation of 26 USC 3793.

### Count III.

On or about March 15, 1947, at Kelso, Washington, Hazel Edna Lewis procured to be falsely and fraudulently executed by Dr. C. W. Spellman a certain document required by the provisions of the Internal Revenue Laws and Regulations made in pursuance thereof, to wit, a physician's prescription for narcotics. That said prescription was falsely executed in that it contained a false and fictitious address of the patient named therein.

All in violation of 26 USC 3793.

### Count IV.

On or about March 15, 1947, at Kelso, Washington, Hazel Edna Lewis procured to be falsely and fraudulently executed by Dr. J. F. Christensen a certain document required by the provisions of the Internal Revenue Laws and Regulations made in pursuance thereof, to wit, a physician's prescription for narcotics. That said prescription was falsely executed in that it contained a false and fictitious address of the patient named therein.

All in violation of 26 USC 3793.

### Count V.

On or about March 25, 1947, at Chehalis, Washington, Hazel Edna Lewis procured to be falsely and fraudulently executed by Dr. Leonard G. Mor-

ley a certain document required by the provisions of the Internal Revenue Laws and Regulations made in pursuance thereof, to wit, a physician's prescription for narcotics. That said prescription was falsely executed in that it contained a false and fictitious address of the patient named therein.

All in violation of 26 USC 3793.

#### Count VI.

On or about March 25, 1947, at Winlock, Washington, Hazel Edna Lewis procured to be falsely and fraudulently executed by Dr. Robert H. Fishbach a certain document required by the provisions of the Internal Revenue Laws and Regulations made in pursuance thereof, to wit, a physician's prescription for narcotics. That said prescription was falsely executed in that it contained a false and fictitious address of the patient named therein.

All in violation of 26 USC 3793.

#### Count VII.

On or about June 5, 1947, at Winlock, Washington, Hazel Edna Lewis procured to be falsely and fraudulently executed by Dr. Robert H. Fishbach a certain document required by the provisions of the Internal Revenue Laws and Regulations made in pursuance thereof, to wit, a physician's prescription for narcotics. That said prescription was falsely executed in that it contained a false and fictitious address of the patient named therein.

All in violation of 26 USC 3793.

Count VIII.

On or about June 5, 1947, at Chehalis, Washington, Hazel Edna Lewis procured to be falsely and fraudulently executed by Dr. Leonard G. Morley a certain document required by the provisions of the Internal Revenue Laws and Regulations made in pursuance thereof, to wit, a physician's prescription for narcotics. That said prescription was falsely executed in that it contained a false and fictitious address of the patient named therein.

All in violation of 26 USC 3793.

Count IX.

On or about September 2, 1947, at Toledo, Washington, Hazel Edna Lewis procured to be falsely and fraudulently executed by Dr. R. C. Maher a certain document required by the provisions of the Internal Revenue Laws and Regulations made in pursuance thereof, to wit a physician's prescription for narcotics. That said prescription was falsely executed in that it contained a false and fictitious address of the patient named therein.

All in violation of 26 USC 3793.

A True Bill.

/s/ HANS M. ANDERSON,

Foreman.

/s/ J. CHARLES DENNIS,

United States Attorney.

/s/ HARRY SAGER,

Assistant United States

Attorney.

[Endorsed]: Filed Oct. 21, 1947.

District Court of the United States, Western  
District of Washington, Southern Division

No. 15870

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HAZEL EDNA LEWIS,

Defendant.

### VERDICT

We, the jury empanelled in the above-entitled cause, find the defendant, Hazel Edna Lewis,

Is Guilty as charged in Count I of the Indictment herein;

Not Guilty as charged in Count II of the Indictment herein;

Not Guilty as charged in Count III of the Indictment herein;

Is Guilty as charged in Count V of the Indictment herein;

Not Guilty as charged in Count VI of the Indictment herein;

Not Guilty as charged in Count VII of the Indictment herein;

Is Guilty as charged in Count VIII of the Indictment herein;

Dated this 5th day of January, 1948.

/s/ W. R. ALLEN,

Foreman.

[Endorsed]: Filed Jan. 5, 1948.

United States District Court, Western District  
of Washington, Southern Division

No. 15870

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HAZEL EDNA LEWIS,

Defendant.

### JUDGMENT AND SENTENCE

On this 12th day of January, 1948, came the attorney for the government, and the defendant appeared in person and by William N. Goodwin, her attorney, and the probation officer for this district having made a presentence investigation, and reported to the court,

It Is Adjudged that the defendant has been convicted upon her plea of not guilty, a jury having been regularly impaneled and a trial held on the merits and a verdict of guilty rendered by the jury of a violation of 26 USC 3793 (procuring execution of false narcotic prescriptions), as charged in Counts I, V and VIII of the Indictment, and the court having asked the defendant whether she has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant be committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Two (2) Years on each of Counts I, V and



VIII of the Indictment, said sentences to run concurrently with each other and not consecutively. The court recommends commitment to an institution for the treatment of narcotic addicts.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that a copy serve as the commitment of the defendant.

Done in Open Court this 12th day of January, 1948.

/s/ CHARLES H. LEAVY,  
United States District Judge.

Presented by:

/s/ HARRY SAGER,  
Assistant United States  
Attorney.

[Endorsed]: Filed Jan. 12, 1948.

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[Title of District Court and Cause.]

### NOTICE OF APPEAL

Name and address of appellant: Hazel Edna Lewis, 4015 S. E Franklin, Portland, Oregon.

Name and address of appellant's attorney: Earl V. Clifford, 905 Rust Building, Tacoma 2, Washington.

Offense: Procuring execution of false narcotics prescriptions. Concise statement of judgment or order, giving date and any sentence:

Judgment and sentence that defendant has been convicted upon her plea of not guilty on jury trial

of a violation of 26 USC 3793, and is guilty as charged on three counts of Indictment returned against her, and that she be committed to the custody of the Attorney General or his authorized representatives for a period of two (2) years on each of Counts 1, 5 and 8 of the Indictment, said sentences to run concurrently with each other and not consecutively, and that her commitment to an institution for treatment of narcotics addicts be recommended; said judgment and sentence entered and filed January 12, 1948.

Name of institution where now confined, if not on bail: City Jail, Tacoma, Washington.

I, the above named appellant, hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the above stated judgment and sentence.

Dated this 17th day of January, 1948.

/s/ HAZEL EDNA LEWIS,

EARL V. CLIFFORD,

Attorney for Appellant.

Copy of the foregoing Notice of Appeal delivered to the U. S. Attorney, Tacoma, Washington, and copy of said Notice of Appeal, together with a Statement of the Docket Entries in the above entitled cause transmitted to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, California, this 19th day of January, 1948.

/s/ E. E. REDMAYNE,

Deputy Clerk.

[Endorsed]: Filed Jan. 19, 1948.

[Title of District Court and Cause.]

ORDER

On application of Earl V. Clifford, attorney for the defendant, made in presence of Guy A. B. Dovell, one of the attorneys for the plaintiff, for entry of the within Order; and the Court in its discretion favoring the granting of such application.

It Is Ordered that the time for filing the record on appeal and docketing the appeal be and it hereby is extended for fifteen days beyond the time at which it would otherwise expire under the rules.

Done In Open Court this 18th day of February, 1948.

/s/ LLOYD L. BLACK,  
Judge.

Presented by:

/s/ EARL V. CLIFFORD,  
Attorney for Defendant.

[Endorsed]: Filed Feb. 18, 1948.



[Title of District Court and Cause.]

STATEMENT OF POINTS

Comes now the defendant and makes a concise statement of the points on which she intends to rely on appeal, as follows:

That no count of the Indictment under which the defendant was convicted charges an offense punishable by law.

/s/ EARL V. CLIFFORD

Attorney for Defendant.

Received copy this 19th day of February, 1948.

/s/ GUY A. B. DOVELL,

Ass't U. S. Attorney.

[Endorsed]: Filed Feb. 19, 1948.

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[Title of District Court and Cause.]

CERTIFICATE OF CLERK TO CONTENTS  
OF RECORD ON APPEAL

I, Millard P. Thomas, Clerk of the United States District Court for the Western District of Washington, do hereby certify and return that the foregoing transcript, consisting of pages numbered 1 to 19, inclusive, is a full, true and correct record of so much of the papers and proceedings in Cause No. 15870, United States of America, Plaintiff, vs. Hazel Edna Lewis, Defendant, as required by Defendant-Appellant's Designation of the Contents of the Record on Appeal, on file and of record in my office at

Tacoma, Washington, and the same constitutes the Transcript of the Record on Appeal from the Judgment of the District Court of the United States for the Western District of Washington, Southern Division, to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify that the following is a full, true and correct statement of all expenses, fees and charges earned by me in the preparation and certification of the aforesaid Transcript of Record on Appeal, to wit:

Appeal fee.....	\$5.00
Clerk's fee for preparation of Record on Appeal.....	2.00
	<hr/>
	\$7.00

and I further certify that the said fees, above set out, have been paid in full.

In Testimony Whereof I have hereunto set my hand and affixed the seal of said Court, in the City of Tacoma, in the Western District of Washington, this 9th day of March, 1948.

[Seal]

MILLARD P. THOMAS,  
Clerk,

By /s/ E. E. REDMAYNE,  
Deputy.

[Endorsed]: No. 11873. United States Circuit Court of Appeals for the Ninth Circuit. Hazel Edna Lewis, Appellant, vs. United States of America, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Western District of Washington, Southern Division.

Filed March 12, 1948.

/s/ PAUL P. O'BRIEN,  
Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.

United States Circuit Court of Appeals  
for the Ninth Circuit

No. 11873

HAZEL EDNA LEWIS,

Appellant,

vs.

UNITED STATES OF AMERICA,

Appellee.

STATEMENT OF POINTS AND DESIGNA-  
TION OF PARTS OF RECORD

Comes now the appellant and concisely states the point or points on which she intends to rely on appeal, as follows:

That no count of the Indictment under which the defendant was convicted charges an offense punishable by law.

And further comes now the appellant and designates the parts of the record which she thinks necessary for the consideration of the above stated point, as follows:

Indictment

Judgment and Sentence

Verdict

/s/ EARL V. CLIFFORD,  
Attorney for Appellant.

Service of the above is hereby admitted this 20th day of March, 1948.

/s/ J. CHARLES DENNIS,  
Attorney or Attorneys for  
Appellee.

[Endorsed]: Filed March 22, 1948.